



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,548	07/25/2003	Yasuhiko Aoki	064731.0339	3535

5073 7590 03/05/2008
BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

EXAMINER

LEUNG, CHRISTINA Y

ART UNIT	PAPER NUMBER
----------	--------------

2613

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

03/05/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptomail1@bakerbotts.com
glenda.orrantia@bakerbotts.com

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/627,548</p>	<p>Applicant(s) AOKI ET AL.</p>	
	<p>Examiner Christina Y. Leung</p>	<p>Art Unit 2613</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 February 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: _____.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Christina Y. Leung/
Primary Examiner, Art Unit 2613

Continuation of 11. does NOT place the application in condition for allowance because:

Examiner respectfully disagrees with Applicant's assertion on pages 8-9 of the response that Arecco et al. do not disclose a second RIC that is "inactive under normal system operation" as recited in claims 1 and 11. Examiner respectfully maintains that Arecco et al. disclose that the second RIC node E and E' is "inactive under normal system operation and not operable to communicate optical traffic between the first and second optical ring networks when the first RIC node is able to communicate optical traffic between the first and second optical ring networks" as recited in the claims. Specifically, Figure 21 shows normal system operation, wherein nodes E and E' are not operable to communicate optical traffic between the rings (column 26, lines 37-67; column 27, lines 1-57). Although Arecco et al. disclose that nodes E and E' pass signals from input ports to output ports in the normal system operation as shown in Figure 21, Arecco et al. specifically discloses that in the normal operation, traffic is communicated between the rings via nodes D and D', not via nodes E and E'. Figure 21, for example, clearly shows how traffic comprising signals S1 and S2 is communicated between node B of ring network 1 and node C' of ring network 2 through nodes D and D'.

Regarding Applicant's particular argument on page 9 of the response that Arecco et al. disclose that "under normal operative conditions, signal S1...passes through node C and is received by node D, where it is split into a first and a second fraction (50% of power) which are sent towards nodes E and D'" (Arecco et al., column 26, lines 61-66), Examiner respectfully notes that Arecco et al. further disclose that the signal that is "sent toward" node E under normal operation does not reach the rest of the second ring for communication. Figure 21 shows that only the signal sent toward node D' continues into the second ring to enables communication between a node of the first ring and a node of the second ring. Under normal operation, the signal sent toward node E further enters node E' and node D' but is then blocked from proceeding into the second ring at node D'. Even though signals are sent toward nodes E and E', Examiner respectfully maintains that under normal operation, nodes E and E' are "not operable to communicate optical traffic between the first and second optical ring networks" and are thus "inactive under normal system operation" as recited in the claims.

Examiner respectfully notes that Arecco et al. specifically disclose that even "when a failure occurs on one of the two rings (or on both), communication is switched onto the protection channels and signals S 1 and S2 are still transferred between the two rings by the D-D' (primary nodes) connection....In case of failure of gateway node D, communication between nodes B and C' and, in general, between Network 1 and Network 2, can be guaranteed by the optical connection between the secondary nodes E and E'." (column 27, lines 61-65 and column 28, lines 61-64). In other words, Arecco et al. disclose that nodes D and D' comprise a first "primary" ring interconnect node for use under normal operation, and nodes E and E' comprise a second "secondary" ring interconnect node specifically for use when the primary ring interconnect node has failed.

Examiner respectfully maintains the grounds of rejection in the final Office action.